In the High Court of Punjab and Haryana at Chandigarh

.....

C.W.P. No.13894 of 2006

.....

Date of decision: 8.9.2006

A.K. Tiwari

.....Petitioner

v.

State of Punjab and others

.....Respondents

....

Coram: Hon'ble Mr. Justice S.S. Nijjar
Hon'ble Mr. Justice S.S. Saron

Present: Mr. V. Ramswaroop, Advocate for the petitioner.

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S.S. Nijjar, J. (Oral):

By a separate order of today the companion writ petition i.e. C.W.P. No.13893 of 2006 has been dismissed. However, in this case, Mr. V. Ramswaroop submits that the claim put forward by the petitioner is slightly different. The writ petitioner is claiming the higher pay scale for the post of Chief Fire Officer w.e.f. 3.12.1991. According to the learned counsel the petitioner worked on the aforesaid post for three days in a week from 1991 to till his retirement on 31.10.1999. The representation of the petitioner has, however, been dismissed by the Principal Secretary. In the impugned order dated 30.1.2006 it has been mentioned that by virtue of the order dated 3.12.1991 the petitioner was asked to perform the duties of Chief Fire Officer, Punjab in addition to his own duties. For the discharge of this duty the petitioner attended the Directorate office at Chandigarh for one day in a

week. For this he was paid TA/DA, as admissible under the rules. Merely because the petitioner was asked to look after the duties of the higher post once a week would not, according to the Principal Secretary, bestow any right on the petitioner to claim higher pay scale, especially so when the post of Chief Fire Officer was never constituted or sanctioned, as provided under Section 71 of the Punjab Municipal Corporation Act, 1976. The Principal Secretary also noticed the judgment of the Supreme Court in the case of S.S. Rathore v. State of Madhya Pradesh, AIR 1990 SC 10 in which it has been held that law of limitation in service matters would be three years. It has also been held that repeated representations would not have the effect of extending the period of limitation. In the present case the cause of action, if any, arose to the petitioner on 3.12.1991.

In our opinion, the claim of the petitioner has been rightly rejected since the post on which the petitioner was asked to perform the duties has not been sanctioned and is not a recognized post under the Punjab Municipal Corporation Service. Obviously no extra salary could be paid for the same. In such circumstances, we find no merit in this petition. Dismissed.

(S.S. Nijjar)
Judge

September 8, 2006.

(S.S. Saron)
Judge

hsp